

**III. Remarks**

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Reconsideration and reexamination of this application in view of the above amendments and following remarks is herein respectfully requested.

After entering this amendment, claims 1 and 3-6 remain pending with claims 7-13 and 20 being withdrawn.

***Rejections – 35 U.S.C. § 112***

Responsive to the rejections of claims 1, 3 and 6 under 35 U.S.C. § 112, claim 1 has been amended to remove the term "permeable" and replace it with the term "partial" as indicated above. In view of the amendment, it is respectfully submitted that the rejections under 35 U.S.C. § 112 are moot and should be withdrawn.

***Rejections – 35 U.S.C. § 102***

Claims 1, 3 and 6 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,004,390 ("Benzinger"). Applicant respectfully traverses these rejections.

A rejection under 35 U.S.C. § 102(b) requires the cited reference to teach each and every element set forth in the claimed invention. Even when rotated 90 degrees, Benzinger fails to teach each and every element as set forth in independent claim 1. Specifically, Benzinger lacks a lower manifold with a *liquid communication path* extending the entire length of the lower manifold. Once rotated, the lower manifold in Benzinger is divided into two independent compartments by section separators 23 and 28. Benzinger, pg. 2, col. 1, lines 10-12 *and* Figure 1. As a result, liquid entering the near end of the lower manifold cannot communicate directly with the far end of the manifold. From this, it is submitted that Benzinger fails to disclose a lower manifold that has a liquid communication path along the entire

length of the manifold. The rejection based thereon should accordingly be withdrawn.

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Claims 1, 3 and 5-6 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,186,249 ("Bhatti"). Applicant respectfully traverses these rejections.

A rejection under 35 U.S.C. § 102(b) requires the cited reference to teach each and every element set forth in the claimed invention. Bhatti fails to teach each and every element as set forth in independent claim 1. Specifically, Bhatti lacks a partial lower baffle secured to the lower manifold at the top, forming a gap at the bottom. Instead, Bhatti has a return baffle plate 70 attached at the bottom forming a gap at the top. Bhatti, col. 7, lines 18-22, and Figure 4. From this, it is submitted that Bhatti fails to disclose a partial lower baffle as set forth in claim 1. The rejection based thereon should accordingly be withdrawn.

*Rejections – 35 U.S.C. § 103*

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Benzinger in view of U.S. Patent No. 5,537,839 ("Burk"). Applicant respectfully traverses this rejection.

When combining references to make an obviousness rejection, the combination must disclose each and every element claimed. For the present rejection, the comments above with regard to Benzinger are equally applicable in that Benzinger fails to teach a lower manifold with a liquid communication path extending the entire length. Burk is cited for disclosing a condenser with an internal dryer. Burk, col. 2, lines 64-66. Therefore, since Burk fails to disclose a lower manifold with a liquid communication path extending the entire length, the

combination of Benzinger in view of Burk fails to disclose every element of the present invention.

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In that Burk fails to disclose or suggest a lower manifold with a liquid flow path extending the entire length, which was previously noted as being absent in Benzinger, it must be concluded that the combination of Benzinger in view of Burk cannot render the claims of the present application as obvious. The rejection under § 103 is therefore improper and should be withdrawn.

*Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

August 17, 2004  
Date

Respectfully submitted,

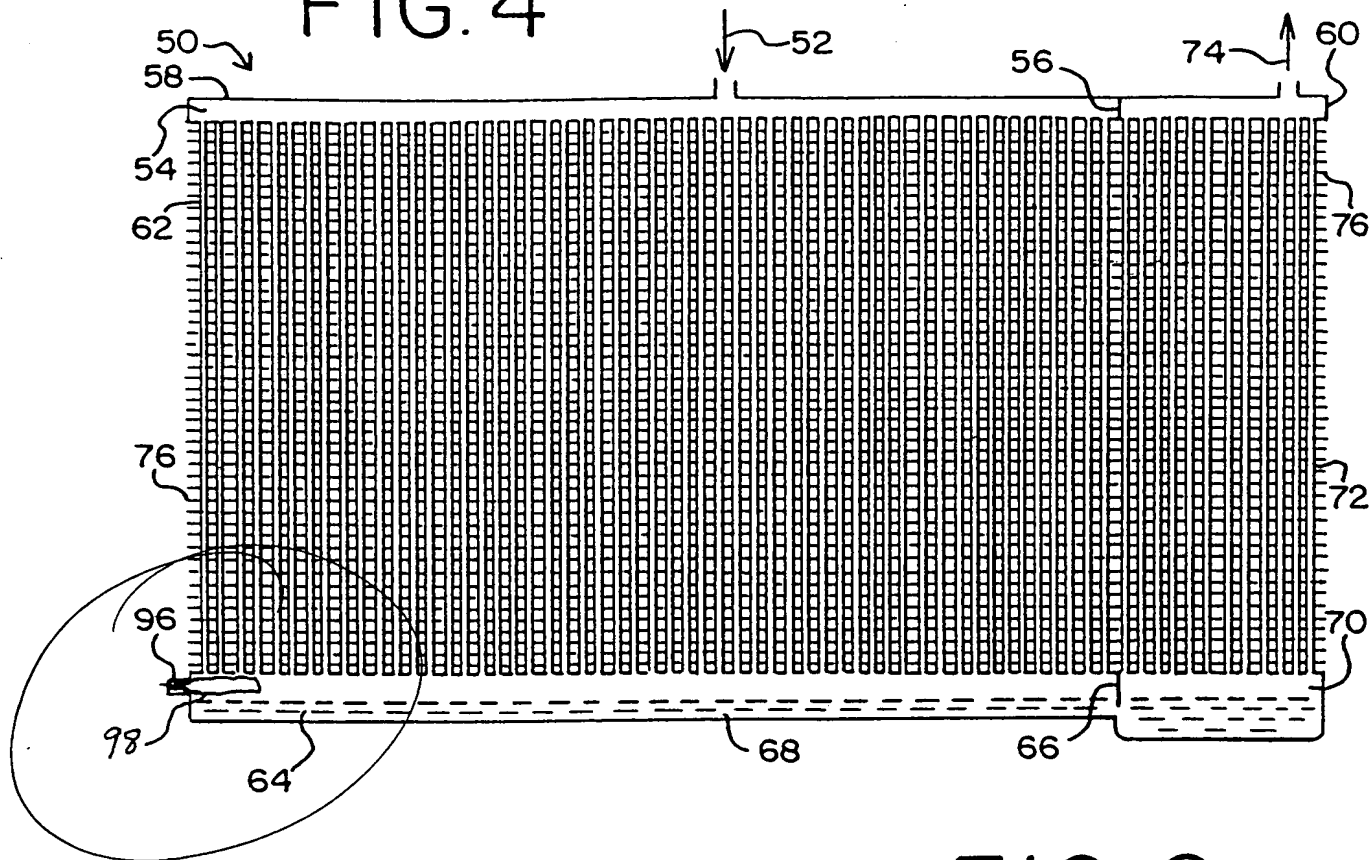
  
Eric J. Sosenko, Reg. No. 34,440



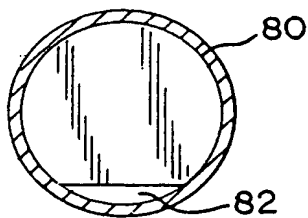
# ANNOTATED MARKED-UP DRAWINGS

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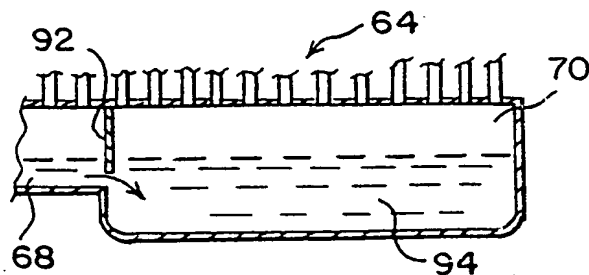
## FIG. 4



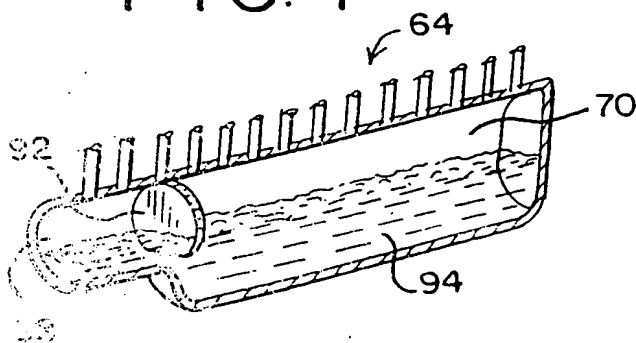
## FIG. 5



## FIG. 6



## FIG. 7



## FIG. 8

